

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

(1) ROBBIE EMERY BURKE, as Special	)	
Administratrix of the Estate of BILLY WOODS,	)	
Deceased,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 18-CV-108-RAW
	)	
(1) MUSKOGEE COUNTY COUNCIL OF	)	Jury Trial Demanded
YOUTH SERVICES ("MCCOYS"), a	)	
Domestic Not-for-Profit Corporation,	)	Attorney Lien Claimed
(2) BOARD OF COUNTY COMMISSIONERS	)	
OF MUSKOGEE COUNTY, OKLAHOMA,	)	
(3) STATE OF OKLAHOMA, <i>ex rel.</i> ,	)	
OFFICE OF JUVENILE AFFAIRS ("OJA"),	)	
(4) JERROD LANG,	)	
(5) BRANDON MILLER,	)	
(6) ANGELA MILLER,	)	
(7) MARIETTA WINKLE, and	)	
(8) STEVEN BUCK,	)	
	)	
Defendants.	)	

**ANSWER TO PLAINTIFF'S AMENDED COMPLAINT**

COMES NOW the Defendant, Jerrod Lang (hereinafter "Defendant Lang"), for his answer to Plaintiff's Amended Complaint (Dkt #31), and states as follows:

**INTRODUCTORY STATEMENT**

1. Defendant Lang admits that decedent, Billy Woods, died on December 15, 2016, while at the Muskogee County Regional Juvenile Detention Center (hereinafter referred to as "MJDC"), after hanging himself. Defendant Lang denies the remaining allegations of Paragraph 1 of Plaintiff's Amended Complaint.

2. Defendant Lang denies the allegations contained in Paragraph 2 of Plaintiff's Amended Complaint.

### **PARTIES**

3. Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 3 of the Amended Complaint and, therefore, denies the same.

4. Paragraph 4 of the Amended Complaint contains no allegations against, and is not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 4 of the Amended Complaint and, therefore, denies the same.

5. Paragraph 5 of the Amended Complaint contains no allegations against, and is not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 5 of the Amended Complaint and, therefore, denies the same.

6. Paragraph 6 of the Amended Complaint contains no allegations against, and is not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 6 of the Amended Complaint and, therefore, denies the same.

7. Defendant Lang admits that he was an employee and shift supervisor at MJDC acting within the scope of employment as alleged in Paragraph 7 of the Amended Complaint.

8. Paragraph 8 of the Amended Complaint contains no allegations against, and is not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 8 of Plaintiff's Amended Complaint and, therefore, denies the same.

9. Paragraph 9 of the Amended Complaint contains no allegations against, and is not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 9 of Plaintiff's Amended Complaint and, therefore, denies the same.

10. Paragraph 10 of the Amended Complaint contains no allegations against, and is not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 10 of Plaintiff's Amended Complaint and, therefore, denies the same.

11. Paragraph 11 of the Amended Complaint contains no allegations against, and is not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 11 of Plaintiff's Amended Complaint and, therefore, denies the same.

### **JURISDICTION AND VENUE**

12. Defendant Lang admits the claims made by Plaintiff occurred in Muskogee County, Oklahoma, as alleged in Paragraph 12 of the Amended Complaint.

13. Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 13 of the Amended Complaint and, therefore, denies the same.

14. Defendant Lang admits this Court has jurisdiction to hear Plaintiff's federal and supplemental State claims, but denies he committed any wrongdoing or violation of the decedent's Constitutional rights as alleged in Paragraph 14 of the Amended Complaint.

15. Defendant Lang admits this Court has jurisdiction to hear Plaintiff's federal claims, but denies he committed any wrongdoing or violation of the decedent's Constitutional rights as alleged in Paragraph 15 of the Amended Complaint.

16. Defendant Lang admits that this Court has jurisdiction to hear supplemental state law claims, but denies he committed any wrongdoing or violation of the decedent's Constitutional rights as alleged in Paragraph 16 of the Amended Complaint.

17. Defendant Lang admits that venue is proper in this Court but denies there is any basis for the claim asserted against him as alleged in Paragraph 17 of the Amended Complaint.

### **FACTUAL ALLEGATIONS**

18. Defendant Lang admits that he arrived at MJCD at 3:00 p.m. for his shift on December 14, 2016. Defendant Lang denies the remaining allegations contained in Paragraph 18 of the Amended Complaint.

19. Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 19 of the Amended Complaint and, therefore, denies the same.

20. Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 20 of the Amended Complaint.

21. Defendant Lang denies the allegations contained in Paragraph 21 of the Amended Complaint.

22. Defendant Lang denies the allegations contained in Paragraph 22 of the Amended Complaint.

23. Defendant Lang denies the allegations contained in Paragraph 23 of the Amended Complaint.

24. Defendant Lang denies the allegations contained in Paragraph 24 of the Amended Complaint.

25. Defendant Lang denies the allegations contained in Paragraph 25 of the Amended Complaint.

26. Defendant Lang denies the allegations contained in Paragraph 26 of the Amended Complaint.

27. Defendant Lang denies the allegations contained in Paragraph 27 of the Amended Complaint.

28. Defendant Lang denies the allegations contained in Paragraph 28 of the Amended Complaint.

29. Defendant Lang denies the allegations contained in Paragraph 29 of the Amended Complaint.

30. Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 30 of the Amended Complaint and, therefore, denies the same.

31. Defendant Lang denies the allegations contained in Paragraph 31 of the Amended Complaint.

32. Defendant Lang denies the allegations contained in Paragraph 32 of the Amended Complaint.

33. Defendant Lang denies the allegations contained in Paragraph 33 of the Amended Complaint.

**Failure to Train/Failure to Supervise**

34. Defendant Lang denies the allegations contained in Paragraph 34 of the Amended Complaint.

35. Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 35 of the Amended Complaint.

36. Defendant Lang denies the allegations contained in Paragraph 36 of the Amended Complaint.

37. Defendant Lang denies the allegations contained in Paragraph 37 of the Amended Complaint.

**Inadequate Staffing**

38. Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 38 of the Amended Complaint and, therefore, denies the same.

39. Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 39 of the Amended Complaint.

**Other Disturbing Evidence of an Unconstitutional Custom**

40. Defendant Lang is without sufficient information to admit or deny the allegations contained in Paragraph 40 of the Amended Complaint.

**CLAIMS FOR RELIEF**

**FIRST CLAIM FOR RELIEF**

**Cruel and Unusual Punishment in Violation of the Eighth  
and/or Fourteenth Amendments to the Constitution of the United States  
(42 U.S.C. § 1983)**

**A. Underlying Constitutional Violations**

41. Paragraph 41 of Plaintiff's Amended Complaint requires no response. Defendant Lang incorporates by reference his responses to Paragraphs 1 through 40 as though fully set forth herein.

42. Defendant Lang denies the allegations contained in Paragraph 42 of the Amended Complaint.

43. Defendant Lang denies the allegations contained in Paragraph 43 of the Amended Complaint.

44. Defendant Lang denies the allegations contained in Paragraph 44 of the Amended Complaint.

45. Defendant Lang denies the allegations contained in Paragraph 45 of the Amended Complaint.

46. Defendant Lang denies the allegations contained in Paragraph 46 of the Amended Complaint.

**B. Municipal/*Monell* Liability (MCCOYS and the County)**

47-52. Paragraphs 47 through 52 of the Amended Complaint contain no allegations against, and are not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant Lang denies the allegations contained in Paragraphs 47 through 52 of the Amended Complaint.

**Failure to Train / Failure to Supervise**

53-56. Paragraphs 53 through 56 of the Amended Complaint contain no allegations against, and are not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant Lang denies the allegations contained in Paragraphs 53 through 56 of the Amended Complaint.

**Inadequate Staffing**

57-58. Paragraphs 57 through 58 of the Amended Complaint contain no allegations against, and are not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant Lang denies the allegations contained in Paragraphs 57 and 58 of the Amended Complaint.

**Other Disturbing Evidence of an Unconstitutional Custom**

59-62. Paragraphs 59 through 62 of the Amended Complaint contain no allegations against, and are not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant Lang denies the allegations contained in Paragraphs 59 through 62 of the Amended Complaint.

**C. Supervisory Liability (Mr. Buck)**

63-68. Paragraphs 63 through 68 of the Amended Complaint contain no allegations against, and are not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant Lang denies the allegations contained in Paragraphs 63 through 68 of the Amended Complaint.

**SECOND CLAIM FOR RELIEF**

**Failure to Intervene  
(42 U.S.C. § 1983)**

69. Paragraph 69 of the Amended Complaint requires no response. Defendant Lang incorporates by reference his responses to Paragraphs 1 through 68 of the Amended Complaint as though fully set forth herein.

70. Defendant Lang denies the allegations contained in Paragraph 70 of the Amended Complaint.

71. Defendant Lang denies the allegations contained in Paragraph 71 of the Amended Complaint.

72. Defendant Lang denies the allegations contained in Paragraph 72 of the Amended Complaint.

73. Defendant Lang denies the allegations contained in Paragraph 73 of the Amended Complaint.



### **THIRD CLAIM FOR RELIEF**

#### **Negligence**

**(Defendants MCCOYS, Lang, Miller, A. Miller and Winkle)**

74. Paragraph 74 of the Amended Complaint requires no response. Defendant Lang incorporates by reference his responses to Paragraphs 1 through 74 of the Amended Complaint as though fully set forth herein.

75. Defendant Lang denies the allegations contained in Paragraph 75 of the Amended Complaint.

76. Defendant Lang denies the allegations contained in Paragraph 76 of the Amended Complaint.

77. Defendant Lang denies the allegations contained in Paragraph 77 of the Amended Complaint.

78. Defendant Lang denies the allegations contained in Paragraph 78 of the Amended Complaint.

79. Paragraph 79 of the Amended Complaint contain no allegations against, and is not directed to, Defendant Lang. Therefore, no response is required. To the extent a response is required, Defendant Lang denies the allegations contained in Paragraph 79 of the Amended Complaint.

#### **FOURTH CLAIM FOR RELIEF**

**Violation of Article II § 9 of the Constitution of the State of Oklahoma Cruel  
and Unusual Punishment and Deliberate Indifference  
(Defendants MCCOYS, OJA, County, Lang, Miller, A. Miller and Winkle)**

80. Paragraph 80 of the Amended Complaint requires no response. Defendant Lang incorporates by reference his responses to Paragraphs 1 through 79 of the Amended Complaint as though fully set forth herein.

81. Defendant Lang denies the allegations contained in Paragraph 81 of the Amended Complaint.

82. Defendant Lang denies the allegations contained in Paragraph 82 of the Amended Complaint.

83. Defendant Lang denies the allegations contained in Paragraph 83 of the Amended Complaint.

84. Defendant Lang denies the allegations contained in Paragraph 84 of the Amended Complaint.

85. Defendant Lang denies the allegations contained in Paragraph 85 of the Amended Complaint.

86. Defendant Lang denies the allegations contained in Paragraph 86 of the Amended Complaint.

87. Defendant Lang denies the allegations contained in Paragraph 87 of the Amended Complaint.

88. Defendant Lang denies the allegations contained in Paragraph 88 of the Amended Complaint.

### **PRAYER FOR RELIEF**

89. Defendant Lang denies the allegations contained in Paragraph 89 of the Amended Complaint.

### **AFFIRMATIVE DEFENSES AND AVOIDANCES**

1. Plaintiff has failed to state a claim for any constitutional violation or for any remedy under 42 U.S.C. §1983 against Defendant Lang.

2. Defendant Lang did not violate the decedent's clearly established constitutional right.

3. Defendant Lang is entitled to qualified immunity.

4. Defendant Lang acted objectively reasonably in all respects.

5. Defendant Lang cannot be held liable for any state or federal constitutional violation resulting from the acts of agents, servants, appointees, or employees under the doctrine of respondeat superior and/or vicarious liability.

6. Defendant Lang has not executed or implemented any policy or procedure which can be found in any ordinance, regulation, policy statement or decision officially adopted by Defendant Lang, or found in a pattern of persistent practices known to and approved by the Defendant Lang, that would be considered unconstitutional.

7. Plaintiff has failed to set forth any allegation which would create a material issue of fact as to the requisite, culpable state of mind of deliberate indifference on behalf of Defendant Lang.

8. Defendant Lang was not deliberately indifferent toward Decedent's alleged serious medical needs.

10. Defendant Lang did not personally participate in any alleged constitutional violation against Decedent.

11. No act or omission by Defendant Lang caused Plaintiff or Decedent's harm or alleged constitutional violations.

12. An award of punitive damages would violate the Fourteenth Amendment to the United States Constitution and principles of due process, as to Defendant Lang.

13. Defendant Lang's actions or inactions were made in good faith.

14. Plaintiff and/or Decedent's alleged injuries/damages were the result of actions or inactions of a third party over whom Defendant Lang had no authority or control, or were caused by Plaintiff or Decedent.

15. Plaintiff's claims are barred by the Oklahoma Governmental Tort claims Act.

16. Plaintiff's damages, if any, are limited and/or barred by the Oklahoma Governmental Tort claims Act.

17. Defendant Lang is exempt from liability under the Governmental Tort Claims Act 51 O.S. §151 *et seq.*

18. Plaintiff's damages, if any, under any state claim are limited and capped.

19. Defendant Lang cannot be sued in his individual capacity for any state claim.

20. Plaintiff's alleged damages, if any, as to any state claim(s), are limited and/or capped under state law.

21. Defendant Lang reserves the right to assert additional affirmative defenses as discovery progresses.

Respectfully submitted,

BEST & SHARP

s/Todd M. Wagner

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*Attorneys for Defendant, Jerrod Lang*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16th day of July, 2018, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants (names only are sufficient):

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